

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Gregory D. Rogers,)	
)	C/A No.: 4:07-1512-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Hammie C. Montgomery and James E.)	
Thomas,)	
)	
Defendants.)	
_____)	

Plaintiff Gregory D. Rogers, appearing pro se, alleges that he is being sued in South Carolina state magistrate court for breaching a commercial lease. Plaintiff seeks an order enjoining the South Carolina magistrate from proceeding and appointing a federal Magistrate Judge to hear the case.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers III for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. § 1915. On May 1, 2007, the Magistrate Judge filed a Report and Recommendation in which he recommended that the case be dismissed because the court lacks diversity jurisdiction. The Magistrate Judge further determined that, to the extent Plaintiff brings this action pursuant to 42 U.S.C. § 1983, there is no allegation that any Defendant acted under color of state law. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is

made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation of the Magistrate Judge and incorporates it herein by reference. The case is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

July 24, 2007.

Columbia, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.